

**Office of Chief Counsel  
Internal Revenue Service**

**memorandum**

CC:NER:MAN:TL-N-1256-97

EPFlores

**BY REGULAR MAIL AND FACSIMILE**

date:

to: Chief, Examination Division, Manhattan District  
Attention: Harold Neutuch and Robert Satz

from: District Counsel, Manhattan

subject:

(a subsidiary of [REDACTED])  
Consents to Extend the Statute of Limitations For Withholding Tax  
STATUTE OF LIMITATIONS EXPIRES ON [REDACTED]

UIL NOS. 6501.04-02, 6501.08-17

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This memorandum is our response to your request for advice as to who is the proper party to sign consents to extend the statute of limitations for withholding taxes under I.R.C. §§<sup>1</sup> 1441-1464 for the subject taxpayers. Our advice is based on the facts provided by you and as set forth in this memorandum.

**ISSUE:**

Who is the proper party to sign the consents to extend the statute of limitations for withholding taxes under §§ 1441-1464.

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<sup>1</sup> All further references to "\$" or "section" will be to the Internal Revenue Code in effect during the years in issue.

**FACTS:**

You have requested our advice as to who is the proper party to execute consents to extend the statute of limitations, Form 872, on behalf of [REDACTED] (" [REDACTED] ") for withholding taxes under §§ 1441-1464 for the taxable years ending December 31, [REDACTED] and December 31, [REDACTED] (the "taxable years in issue"). During the taxable years in issue, [REDACTED] was a wholly-owned subsidiary of [REDACTED] (" [REDACTED] "). [REDACTED] was part of the consolidated return that was filed by [REDACTED] for the taxable years in issue. [REDACTED] was the common parent, i.e., the highest tier domestic corporation, for the consolidated group. [REDACTED] filed separate returns for withholding taxes because withholding taxes could not be included in [REDACTED]'s consolidated return. See Treas. Reg. § 1.1502-11. On [REDACTED], [REDACTED] purchased the stock of [REDACTED].

**DISCUSSION:**

Under § 6501(c)(4), the Service and a taxpayer may consent in writing to an extension of the time for making an assessment if the consent is executed before the expiration of the normal period of assessment or the extension date agreed upon in a prior extension agreement between the parties. In order to extend the period for assessment in the case of a corporate return, a Form 872 must be executed by a duly authorized officer of the corporation.

Although [REDACTED] is the common parent of the consolidated group, under Treas. Reg. § 1.1502-77, [REDACTED] is only authorized to be the sole agent for each of its subsidiaries in the consolidated group for matters relating to the tax liability for the consolidated return year. Since the withholding tax liabilities were not part of the consolidated return for the taxable years in issue, [REDACTED] is the proper party to sign the consents. Based on the facts provided by you, [REDACTED]'s purchase of [REDACTED]'s stock does not affect our analysis. According to you, [REDACTED]'s purchase was only a stock purchase and [REDACTED] was not liquidated or merged out of existence and nor has its name been changed. Therefore, the Form 872 should bear the following caption: "[REDACTED] (EIN: \_\_\_\_\_)".

Under § 6061, any return, statement or other document made under any internal revenue law must be signed in accordance with the applicable forms or regulations. In the case of corporate returns, § 6062 provides that a corporation's income tax return shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other

officer duly authorized to act. The regulations under § 6501(c)(4) do not specify who may sign consents executed under this section. Accordingly, the Service will apply the rules applicable to the execution of the original returns to the execution of consents to extend the time to make an assessment. Rev. Rul. 83-41, 1983-1 C.B. 349, clarified and amplified, Rev. Rul. 84-165, 1984-2 C.B. 305. Under Treas. Reg. § 1.6062-1, returns that are required to be made by corporations under the provisions of subtitle A or subtitle F of the Internal Revenue Code with respect to any tax imposed by subtitle A (which includes the §§ 1441-1464 withholding taxes) shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to sign such returns. Accordingly, any such officer of Sherwood is authorized to sign the consents.

**CONCLUSION:**

Any such officer of [REDACTED] as described in Treas. Reg. § 1.6062-1, is authorized to execute the consents for the taxable years in issue for the withholding taxes. If you have any questions, please call Lisa Flores at 212-264-5473 extension 232.

FRANCES F. REGAN  
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By: \_\_\_\_\_

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Assistant District Counsel

Noted:

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